

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

PAULO GOMES and)	FILED: MAY 02, 2008
RENEE KRAUTTER-GOMES,)	08CV2506 TC
A96 620 473)	JUDGE ANDERSEN
Plaintiffs,)	MAGISTRATE JUDGE DENLOW
)	
v.)	
)	NO.
)	
MICHAEL CHERTOFF, Secretary of the U.S.)	
Department of Homeland Security; RUTH A.)	
DOROCHOFF, District Director, U.S. Citizenship)	
and Immigration Services; MICHAEL B.)	
MUKASEY, U.S. Attorney General;)	
)	
Defendants.)	

COMPLAINT

NOW COME the Plaintiffs, Paulo Gomes and Renee Krautter-Gomes, by and through their attorney, Stanley J. Horn of Horn, Khalaf, Abuzir, Mitchell & Schmidt, and complaining of the Defendants, Michael Chertoff, Secretary of the U.S. Department of Homeland Security, Ruth A. Dorochoff, District Director of the U.S. Citizenship and Immigration Services (USCIS), formerly known as the Immigration and Naturalization Service (INS), and Michael B. Mukasey, U.S. Attorney General, and states as follows:

1. Jurisdiction is based upon 8 U.S.C. 1329, 28 U.S.C. 1361 and 28 U.S.C. 1331(a).

Furthermore, this action is in the nature of a Mandamus so as to invoke the jurisdiction of this Court to compel the Defendants to perform their mandatory administrative duty and for attorney's fees under 28 U.S.C. 2412 for the failure of the Defendants to perform their duties. Declaratory Judgment is sought pursuant to 28 U.S.C. 2201 and 28 U.S.C. 2202.

2. On March 1, 2003, the duties and responsibilities of the former INS were assumed by the newly formed USCIS, under the Department of Homeland Security.

3. The Defendant, Michael Chertoff is the Secretary of the U.S. Department of Homeland Security. The Defendant, Ruth A. Dorochoff is the District Director of the USCIS. The Defendant, Michael B. Mukasey is the U.S. Attorney General. They are being sued in their official capacity only.

4. This action is in the nature of Mandamus requiring the USCIS to make a decision on Form I-485, Application for Adjustment of Status to that of Lawful Permanent Resident.

5. On September 1, 2005, Plaintiff Paulo Gomes filed his application for adjustment of status to that of lawful permanent residence, along with the I-130 Relative Petition, filed on his behalf by his U.S. citizen spouse, Plaintiff Renee Krautter-Gomes (See Exhibit 1).

6. On July 10, 2006, both the Plaintiff Paulo Gomes and his United States citizen spouse, Plaintiff Renee Krautter-Gomes, appeared for a scheduled interview with Officer Lagacy. At the time of the interview Officer Lagacy indicated that the Plaintiff Paulo Gomes required a waiver as the applicant Paulo Gomes was H.I.V. positive. The Plaintiff Paulo Gomes complied with the request and filed a waiver on October 2, 2006.

7. Plaintiffs have attempted, on numerous occasions to obtain the status of their case.

8. To date, no action has been taken by the Defendants to process the Plaintiffs' application for Adjustment of Status, the Relative Petition, and the Waiver.

9. Plaintiffs request attorney fees under 28 U.S.C. 2412 for failure of the Defendants to properly perform their duties in adjudicating the application, petition and waiver of the Plaintiffs.

WHEREFORE, Plaintiffs, Paulo Gomes and Renee Krautter-Gomes, pray as follows:

A. For an Order of Mandamus requiring the Defendants to act on the I-130 Relative Petition, the I-485 Adjustment Application, and the Waiver on Form I-601.

B. For an Order declaring that the action of the Defendants in refusing to act on the Plaintiffs' application is arbitrary, capricious and an abuse of discretion.

C. For Attorney's fees as the Court deems necessary and proper to compensate the Plaintiffs for the wrongful refusal to act on the Plaintiffs' application for Adjustment of Status, the Relative Petition, and the Waiver.

D. For such other relief as the Court may deem fit.

Respectfully submitted,
PAULO GOMES and
RENEE KRAUTTER-GOMES,

BY: s/ Stanley J. Horn
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